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October 3, 2018

Via U.S. Mail

Joseph Kranyac, III

**Re: Open Meeting Law Complaint, O.A.G. File No. 13897-262
Boulder City Airport Advisory Committee**

Dear Mr. Kranyac:

You filed a complaint on January 16, 2018, (Complaint) with the Office of the Attorney General (OAG) alleging violations of the Nevada Open Meeting Law (OML) by the Boulder City Airport Advisory Committee (Committee). The Complaint alleges that the Committee violated the OML by holding a closed meeting with Boulder City Mayor Woodbury in or around December, 2017.

The OAG has statutory enforcement powers under the OML and the authority to investigate and prosecute violations of the OML. NRS 241.037; NRS 241.039; NRS 241.040. The investigation of the Complaint included OAG review of the agenda and recording for the December 12, 2017, City Council of Boulder City (City Council) meeting, agendas and minutes of the January 2 and February 20, 2018, Committee meetings, together with written responses to the Complaint and supporting materials from Steven L. Morris, Esq., City Attorney for Boulder City.

After investigating this matter, the OAG determines that the Committee did not violate the OML because less than a quorum of the Committee was present at the gathering at issue.

FACTUAL BACKGROUND

The Committee was originally established by Resolution No. 2371 of the City Council on February 8, 1994, and re-established by Resolution No. 2659 on January 9, 1996. Its purpose is to advise the City Council and City Manager on matters concerning the Boulder City Municipal Airport. Thus, the Committee is a "public body" as defined in NRS 241.015(4) and is subject to the OML.

Resolution No. 2659 stated that the City Council would appoint five members to the Committee and stated, "A quorum of three (3) members shall be present in order to transact any business." Resolution No. 2702 of the City

Council increased possible membership of the Committee to seven members on February 27, 1996, and stated “A quorum of four (4) members shall be present in order to transact any business.” However, in December 2017, there were only five active members of the Committee and two seats were vacant.

Three active members of the Committee attended a gathering with Boulder City Mayor Rodney Woodbury prior to the City Council meeting held on December 12, 2017. An agenda was not issued for this gathering and it was not open to the public. During the gathering, the members of the Committee and Mayor Woodbury discussed proposed changes to the membership and structure of the Committee and the members expressed to Mayor Woodbury their views in favor of the changes.

DISCUSSION AND LEGAL ANALYSIS

The legislative intent of the OML is that actions of public bodies “be taken openly, and that their deliberations be conducted openly.” NRS 241.010(1); see also *McKay v. Board of Supervisors*, 102 Nev. 644, 651, 730 P.2d 438, 443 (1986) (“the spirit and policy behind NRS chapter 241 favors open meetings”). Public bodies working on behalf of Nevada citizens must conform to statutory requirements in open meetings under an agenda that provides full notice and disclosure of discussion topics and any possible action. *Sandoval v. Board of Regents*, 119 Nev. 148, 67 P.3d 902 (2003).

The OML defines a “meeting” as “[t]he gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.” NRS 241.015(3)(a)(1). “The Open Meeting Law is not intended to prohibit every private discussion of a public issue. Instead, the Open Meeting Law only prohibits collective deliberations or actions where a quorum is present.” *Dewey v. Redevelopment Agency of Reno*, 119 Nev. 87, 94, 64 P.3d 1070, 1075 (2003) (the quorum standard is a bright line standard).

A “quorum” means “a simple majority of the membership of a public body or another proportion established by law.” NRS 241.015(5). The simple definition of a “member” is “[o]ne of the individuals of whom an organization or a deliberative assembly consists, and who enjoys the full rights of participating in the organization—including the rights of making, debating, and voting on motions.” Black’s Law Dictionary (10th ed. 2014).

Here, as the Committee only had five active members at the time of the gathering at issue—five individuals enjoying the rights of making, debating, and voting on motions—only three members would be required to constitute a quorum based on the simple majority standard. However, because the City Council established a quorum requirement of four members in Resolution No. 2702, the four-member requirement controls. See NRS 241.015(5). Thus, there was not a quorum present at the gathering with Mayor Woodbury, the gathering was not a “meeting” under the OML, and the Committee did not violate the OML.

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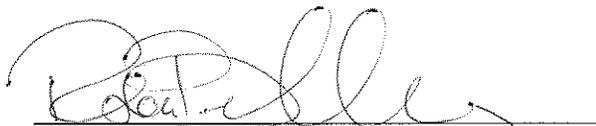
The OAG notes that a prior member of the Committee whose term had expired also attended the gathering at issue. The evidence indicates that neither the prior member nor the other members of the Committee were aware that the term had expired. However, the evidence did not indicate an intention to circumvent the spirit or the letter of the OML in this instance. The OAG cautions the Committee to be careful in its discussions such that a future violation of the OML does not occur.

CONCLUSION

The OAG has reviewed the available evidence and determined that no violation of the OML has occurred. The OAG will close the file regarding this matter.

Sincerely,

ADAM PAUL LAXALT
Attorney General

A handwritten signature in black ink, appearing to read 'Rosalie BordeLove', written over a horizontal line.

ROSALIE BORDELOVE
Deputy Attorney General

cc: Steven L. Morris, Esq., City Attorney for Boulder City